

Applicant : McClure, et al.
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Attorney's Docket No.: 08168-048001

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REMARKS

Claims 21-35 are pending with claims 21, 29, and 34 being independent. Claims 1-20 were cancelled previously. Claims 21-29 and 34 have been amended. No new matter has been added. The specification supports the amendment at least on page 4, ¶ 15. In light of the amendment and following remarks, reconsideration and allowance is requested.

Allowable Subject Matter

Claims 24, 28, and 31 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The identification of claims 24, 28, 31 as allowable is acknowledged and appreciated. Claim 24 has been amended in independent form to include all features of claim 21. Claims 28 and 31 are retained.

Rejections Under 35 U.S.C. § 102

Claims 21-22, 25-27, 29, and 32-35 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 3,347,386 to Kraissl, Jr. ("Kraissl"). This contention is respectfully traversed.

The current rejections should be withdrawn because the Office's citations are inconsistent and erroneous with respect to the teachings of Kraissl. For example, the Office first alleges that reference number 46 represents a filter. *See*, Office Action Dated February 3rd, 2006, ¶ 2, l. 4. But later in the same paragraph, reference number 7 is identified as the same filter. *See, id.* at pg. 2, ¶2, l. 8. Further, the remaining recitations of the same filter by the Office is not accompanied by a citation to a specific reference number. *See, id.* at ¶ 2, ll. 9 and 12-13.

According to Kraissl, a filter is described in FIGS. 1-3 and identified by a reference number 4. *See* Kraissl, at Col. 2, ll. 15-18. "The structure of filter 4 is shown in FIGS. 2 and 3. There is an outer screen 6 with an inner adjacent screen 7 concentric therewith" *Id.*

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Therefore, one of the elements identified by the Office as the filter, reference number 7, is in reality an element of the filter (reference no. 4) and not the entire filter itself.

In addition, the Office contends that reference number 45 of Kraissl identifies the claimed strainer as recited in claim 21. However, Kraissl discloses that "within casing 1 is a cylindrical screen 45, and concentric therewith is screen 46" *Id.* at Col. 2, ll. 6-7. Thus in Kraissl, screen 45 is a part of the casing 1 and not the filter 4. Since screen 45 is an element of the casing 1, and screen 7 is an element of the filter 4 in Kraissl, it is unreasonable and inconsistent with respect to the teachings of Kraissl to allege that screen 45 is the *strainer* and screen 7 is the *filter* as recited in claim 21. For example, the screen 45 (a part of the casing 1) in Kraissl does not contact the screen 7 (a part of the filter 4) in either end, and thus the screen 45 cannot reasonably be construed as the strainer that surrounds the filter and comprises a first end to contact the filter as recited in claim 21.

Nonetheless, independent claims 21, 29 and 34 have been amended to better emphasize their patentable distinctions over the art. Independent claim 21 now recites, "[...] a strainer that surrounds the filter and comprising a first end to contact the filter and a second end to contact the interior wall of the floodable compartment to allow the water entering the floodable compartment from the water inlet to pass between the filter and the strainer before interacting with the filter [...]; and wherein the filter and the strainer are configured to allow all of the water passing through the filter to also pass through the strainer." (Emphasis added.) Kraissl fails to disclose each and every feature of claim 21 because the filtration system in Kraissl is not designed to filter the water as recited in claim 21.

The flow of water in the filtering system of claim 21 is from the inlet to the outlet, and the water enters between the filter and the strainer before interacting with the filter. Then, the water passes through the filter to capture the filtered particles. After passing through the filter, the filtered water also passes through the strainer before exiting through the outlet. All of the water that goes through the filter, also goes through the strainer.

In Kraissl, the water flows into a space surrounded by a "concentric" screen 7 of a filter 4. *See* Kraissl, Col. 2, ll. 15-29; FIG. 1. Some of the water in Kraissl flows through the first

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screen 7 and then the second screen 6 before exiting through the outlet 5. *See* FIG. 3. Yet, some of the water in Kraissl flows from the top through the screen cover 11 and exits through the bottom end 15 of the filter without passing through the first screen 7 or the second screen 6. *See* FIG. 3. Therefore, the filtration system in Kraissl cannot reasonably be construed to include a strainer comprising a second end to contact the interior wall of the floodable compartment to allow the water entering the floodable compartment from the water inlet to pass between the filter and the strainer before interacting with the filter, and the filter and strainer configured to allow all of the water passing through the filter to also pass through the strainer, as recited in claim 21.

For at least these reasons, independent claim 21 should be in condition for allowance. Independent claims 29 and 34 recite features similar to those of claim 21, and thus are allowable over Kraissl for at least the reasons set forth with respect to claim 21 above. Claims 22, 25-27, 32-33, and 35 depend from claims 21, 29, and 34, and thus are patentable for at least the reasons set forth with respect to claims 21, 29, and 34 above.

Rejections Under 35 U.S.C. § 103

Claims 23 and 30 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kraissl. This contention is respectfully traversed.

Claims 23 and 30 depend from claim 21 and 29, and thus are patentable over Kraissl for at least the reasons set forth with respect to claims 21 and 29 above. In addition, claims 23 and 30 are patentable over Kraissl for independent reasons.

For example, the Office concedes that Kraissl fails to disclose that the strainer includes a bag. *See* Office Action Dated February 3rd, 2006, ¶ 4, I. 3. However, the Examiner purports to take Official Notice that "it is conventional in the art to use bag filter in order to, for example, remove debris from a fluid it would have been readily obvious for the skilled artisan to modify the filters of Kraissl, Jr. such that it includes a bag" *Id.* at ¶ 2, II. 4-9. However, this contention is unsupported by documentary evidence.

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In the absence of documentary evidence, the Office should only take official notice of facts asserted to be "well-known" if those facts are capable of instant and unquestionable demonstration as being well-known.

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art.

See M.P.E.P. § 2144.03(A) (emphasis in the original).

If the Examiner is relying on personal knowledge to support the finding of what is known in the art, the Examiner must provide an affidavit or declaration setting forth specific factual statements and explanations to support the finding. See 37 C.F.R. § 1.104(d)(2). Accordingly, if the rejection is to be maintained, the Applicant respectfully calls upon the Examiner to produce an affidavit or declaration to support the alleged facts of which the Examiner has taken official notice. See 37 C.F.R. § 1.104(d)(2).

Conclusion

In view of the above remarks, all of the claims are in condition for allowance. A formal notice to that effect is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

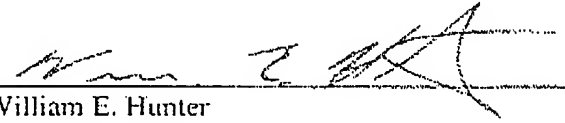
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Please apply the three months extension of time fee, and any other necessary charges or credits, to deposit account 06-1050.

Respectfully submitted,

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